

NOTICE OF PROPOSED AMENDMENT TO TITLE 15, MINIMUM STANDARDS FOR
LOCAL DETENTION FACILITIES, CALIFORNIA CODE OF REGULATIONS, BY THE
STATE CORRECTIONS STANDARDS AUTHORITY

TITLE 15. CORRECTIONS STANDARDS AUTHORITY

Pursuant to Penal Code 6030, the State Corrections Standards Authority (CSA) hereby gives notice of the proposed regulatory action(s) described in this public notice. It is the intent of the CSA to amend and adopt the regulations contained in Title 15, Division 1, Subchapter 4, California Code of Regulations (known as the Minimum Standards for Local Detention Facilities), after considering all comments, objections, and recommendations regarding these regulations.

PUBLIC HEARING

The CSA will hold the following public hearings:

Wednesday, September 3, 2008

09:00 am

Corrections Standards Authority
660 Bercut Drive
Sacramento CA 95811

Thursday, September 11, 2008

09:00 am

San Diego Sheriff's Department
Headquarters
9621 Ridgehaven Court
San Diego CA 92123

Both locations are wheelchair accessible. At the hearings, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The CSA requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The hearing will remain open only as long as persons in attendance are presenting testimony.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the CSA. The written comment period closes at **5:00 pm on September 8, 2008**. The CSA will consider only comments received at CSA offices by that time. Submit comments to:

Allison Ganter, Field Representative
600 Bercut Drive
Sacramento CA 95811
(916) 445-5073
allison.ganter@cdcr.ca.gov

Ron Bertrand, Field Representative
600 Bercut Drive
Sacramento CA 95811
(916) 445-5073
ron.bertrand@cdcr.ca.gov

AUTHORITY AND REFERENCE

Penal Code Section 6030 authorizes the CSA to adopt and amend the proposed regulations, which would implement, interpret, or make specific Sections 6029 and 6030 of the Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws

Sections 6029 and 6030 of the California Penal Code authorize the Corrections Standards Authority to establish standards for local adult and juvenile detention facilities. The standards shall include but not be limited to the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities and personnel training. Section 6030 requires the Corrections Standards Authority to review such standards biennially and make any appropriate revisions.

Summary of Existing Regulations

Existing standards which prescribe requirements for local detention facilities are promulgated by the Corrections Standards Authority. These regulations are contained in Title 15 – Crime Prevention and Corrections, Division 1, Chapter 1, Subchapter 4 of the California Code of Regulations (CCR).

Summary of Effect

The proposed action would update Title 15, Division 1, Chapter 1, Subchapter 4 CCR adopting new and revised definitions to add clarity to the regulations; update reference to the Board of Corrections to Corrections Standards Authority to reflect legislative change; require facility administrators to comprehensively review policy and procedures every two years rather than annually; update reference to State Fire Marshal inspections; allow a facility manager's designee to accept incident reports in his/her stead; update reference to Building Standard Commission regulatory citations; delete requirements for reporting the use of force for DNA collection to the CSA due to this requirement sunseting; update regulations regarding correspondence for clarity; updating regulations to include writing with books newspapers and periodicals and clarify the intent of the regulation regarding such publications; correct grammatical errors; update regulations regarding contact between adult inmates and minors to ensure consistency with state and federal statute; delete outdated reference to minors under 16 in adult jails; clarify the requirements for obtaining a medical clearance for minors in temporary holding facilities and lockups; clarify the requirements for a facility that elects to implement provisions for transfer to a mental health facility; revise requirements for administering involuntary psychotropic medication; update references to the California Retail Food Code; correct an error from past revisions regarding minimum diet; update references to the correct Dietary Guide; and, update reference to test standards for penal mattresses. The effect of the proposed changes is further described below.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed action is to maintain regulations for local adult detention facilities in conformance with sound correctional practices and to ensure the safe and secure detention of incarcerated persons.

1004. Severability. This regulation describes the severability of an unconstitutional or contrary regulation. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1006. Definitions. This regulation defines terms used throughout these regulations. To provide clarity and consistency to these regulations, five have been amended, and one has been deleted.

1007. Pilot Projects. This regulation describes the requirements if a facility elects to apply for a pilot project. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1008. Alternate Means of Compliance. This regulation describes the requirements if a facility elects to apply for an Alternate Means of Compliance. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1012. Emergency Suspension of Standards. This regulation outlines the steps that must be taken to suspend applicability of standards in the event of an emergency. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1013. Criminal History Information. This regulation allows certain information to be accessible to CSA staff. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1018. Appeal. This regulation outlines the appeal process if a jurisdiction does not agree with the application of a particular standard. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1027. Number of Personnel. This regulation outlines the requirements for staffing and safety checks in a detention facility. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1028. Fire and Life Safety Staff. This regulation requires that there be at least one staff member trained in fire and life safety on duty at all times in a detention facility. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1029. Policy and Procedures Manual. Current regulations require that the facility manager develop and publish a manual of policies and procedures and requires that this manual be updated at least annually. The proposed revision would extend this process to every two years

and adds the term “comprehensively reviewed” to the process to allow necessary time for such a review.

1032. Fire Suppression Preplanning. This regulation outlines the requirements for a facility’s fire suppression preplan. Revisions bring the regulation in line with current Health and Safety Code requirements for biennial fire prevention inspections. There is no operational impact.

1040. Population Accounting. This regulation describes the requirements for population accounting systems. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1044. Incident Reports. Current regulation requires that a written record of all incidents which result in physical harm, or serious threat of physical harm, to an employee or inmate of a detention facility or other person shall be submitted to the facility manager within 24 hours of the event of the incident. Proposed revisions add the words “or his/her designee” to regulation to allow the facility manager to designate a subordinate to accept the written record; the facility manager may be in a higher-level position and may not be the individual who actually reviews the report within 24 hours. There is no operational change.

1045. Public Information Plan. This regulation describes the information that must be made available to both inmates and the public. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

Revisions also update reference to Title 15, Section 1066; the title of this regulation was revised.

1046. Death in Custody. This regulation outlines specific procedures in the event of a death in custody. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1055. Use of Safety Cell. This regulation describes the requirements for use of a safety cell. Proposed revisions update the reference to Safety Cells in Title 24; the code sections were recently revised by the Building Standards Commission.

1056. Use of Sobering Cell. This regulation describes the requirements for use of a sobering cell. Proposed revisions update the reference to Sobering Cells in Title 24; the code sections were recently revised by the Building Standards Commission.

1059. DNA Collection, Use of Force. Current regulations require that a report be submitted to the CSA within 10 days whenever reasonable force is used to collect specimens, samples or prints to comply with Penal Code Section 298.1. The original intent of the reporting requirement was to provide a means for the Corrections Standards Authority to collect data from the agencies to meet the requirements of PC 298.1 to report to the legislature by January 1, 2005. Proposed revisions delete section 1059(b)(2) as there are no future reporting requirements by the CSA to the legislature. Additional revisions update the numbering in the regulation for consistency.

1063. Correspondence. This regulation delineates the requirements for inmate correspondence. The recommended changes add provision for the facility manager to designate staff to determine when a valid security reason would require mail to be read. Changes also delete reference to inmates confidentially corresponding with certain public officials. This change does not change the intent of the regulation, since mail should not be read in any situation unless a valid security reason exists; however, the confidentiality of such correspondence cannot be guaranteed in the event that there is a valid security reason and also cannot be guaranteed once the correspondence leaves the facility.

Revisions also replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1066. Books, Newspapers, Periodicals, and Writings. This regulation outlines what reading material is allowed in certain facilities and delineates some restrictions on such material. Revisions include adding “Writings” to the title and require facility administrators to include writings in the types of reading material that an inmate may receive. Revisions add a new section 1 which captures the intent of the original section 2, which excludes reading material if there is a legitimate penological interest.

Language is added to the new section 2 (originally section 1) to include that material may be excluded if it contains information on unlawful activities. There is no operational impact; these changes clarify the intent of the regulation, and the options available to facility administrators.

1082. Forms of Discipline. This regulation describes the limitations that may be placed on disciplinary actions. Proposed revisions correct a grammatical error.

1101. Restrictions on Contact with Adult Prisoners. Current regulations restrict contact between detained minors and adults and specify situations in which they can be in the same room, area or corridor. Proposed revisions incorporate language that is consistent with the Juvenile Justice and Delinquency Prevention Act and clarify that contact must be brief or accidental and further require that side-by-side supervision must occur to assure that communication does not occur.

The revisions also delete the option of routinely using inmate workers in areas where minors are present; this is in direct conflict with both federal and state statute.

1105. Recreation Programs. This regulation outlines the requirements for recreation for minors that may be housed in an adult facility. The changes delete the requirements for recreation for minors under 16 since statute prohibits minors under 16 to be housed in an adult jail. The language relative to minors who are 16 or older was deleted, since there is no need for specific reference to age once the minors who are under 16 were deleted from the regulation. There is no anticipated operational impact.

1144. Contact Between Minors and Adult Prisoners. Current regulations restrict contact between detained minors and adults and specify situations in which they can be in the same room, area or corridor. Proposed revisions incorporate language that is consistent with the

Juvenile Justice and Delinquency Prevention Act and clarify that contact must be brief or accidental and further require that side-by-side supervision must occur to assure that communication does not occur.

The revisions also delete the option of routinely using inmate workers in areas where minors are present; this is in direct conflict with both federal and state statute.

1151. Intoxicated and Substance Abusing Minors in a Lockup. Current language requires a medical clearance prior to reception at the facility for any minor who displays outward signs of intoxication or who is known or suspected to have ingested any substance that could result in a medical emergency. Proposed revisions would require facility administrators to have policies and procedures to ensure that a medical clearance is obtained for minors who are intoxicated, by any substance, to the extent that they are unable to care for themselves.

Additionally, proposed revisions clarify that minors in secure detention must have documented safety checks **no less than** every 15 minutes pending release or a resolution of the intoxicated state and that minors in non-secure detention must remain under constant observation, as required by Section 1150.

1161. Conditions of Detention. This regulation specifies the conditions of detention for minors in Court Holding Facilities. The revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1209. Mental Health Services and Transfer to Treatment Facility. This regulation requires the health authority, in cooperation with the facility administrator, to develop policies and procedures to provide mental health services. In addition, it references statutory language that states that a mentally disordered inmate who appears to be a danger to himself or others, or to be gravely disabled, shall be transferred for further evaluation to a designated Lanterman Petris Short treatment facility.

If the county Board of Supervisors authorizes the administration of involuntary medication inside their local adult detention facility, it will require some changes in facility operations to ensure the safety and security of inmates being involuntarily treated. The proposed revisions outline the requirements that the health authority and facility manager must follow when implementing Penal Code Section 1369.1. The changes will only affect those counties who elect to implement the statute's requirements.

1217. Psychotropic Medications. This regulation outlines the requirements for the administration of psychotropic medications. If the county elects to provide on-site emergency psychotropic medications, proposed revisions will require both policy regarding a physician responding to the facility to conduct a clinical evaluation or conduct a clinical evaluation on the telephone and an agreement with a physician to provide this service. It is expected that most small, rural facilities without twenty-four hour nursing will not administer involuntary medications. The current practice in these locations is to transport the inmate to a community emergency department.

1230. Food Handlers. This regulation requires the responsible physician to develop policy and procedures for inmate food service workers, including adherence to statute. The changes involve non-substantive code and section reference changes only; there is no operational impact.

1241. Minimum Diet. This regulation outlines the references that facility managers should use when developing the diet. Proposed revisions include updating reference to the most current Dietary Guidelines for Americans.

Proposed revisions also update the amount of retinol equivalents in section (c) from 2000 to 200. 200 RE is the correct amount; however, it appeared as 2000 in the published version of Title 15.

Additional revisions include deleting the specific examples for bread and cereal products; this section was erroneously omitted from the previous regulation revisions and remained in the 2005 regulations. There is no operational change.

1243. Food Service Plan. This regulation outlines the items to be included in a facility's food service plan. Changes include non-substantive code and section reference changes only. There is no operational change.

1245. Kitchen Facilities, Sanitation, and Food Storage. This regulation outlines specific requirements and statutory references for sanitation and food service in kitchen facilities. Proposed revisions update relevant code and section reference changes only; there is no operational impact.

1247. Disciplinary Isolation Diet. This regulation outlines the requirements to be followed if an inmate is placed on a disciplinary diet. Proposed revisions replace Board of Corrections with Corrections Standards Authority; there is no operational impact.

1262. Clothing Exchange. This regulation requires written policy and procedures for scheduled clothing exchange and cite reference to statute for certain clothing exchange. Proposed revisions update the title of the new California Retail Food Code; there is no operational change.

1272. Mattresses. This regulation describes the requirements for mattresses in a detention facility. The proposed language will clarify that mattresses meet applicable standards at the time of purchase, rather than citing a specific standard that may be out of date. There is no operational impact.

DISCLOSURE REGARDING THE PROPOSED ACTION

The CSA has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None

Other nondiscretionary costs or savings imposed on local agencies: None

Costs or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The CSA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California

Significant effect on housing costs: None.

Small Business Determination:

The CSA has determined that the proposed regulations will have no effect on small businesses. These proposed regulations affect the operations and programs for Local Adult Detention Facilities.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the CSA must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The CSA invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearings or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Allison E. Ganter, Field Representative
600 Bercut Drive
Sacramento, CA 95814

(916) 445-5073
allison.ganter@cdcr.ca.gov
Ron Bertrand, Field Representative

600 Bercut Drive
Sacramento, CA 95811

(916) 445-5073
Ron.bertrand@cdcr.ca.gov

Questions on the substance of the proposed regulation may be directed to either Ms. Ganter or Mr. Bertrand.

Please direct requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which this rulemaking is based to Allison Ganter or Ron Bertrand at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Rulemaking File, which includes all the information on which this proposal is based, is available for viewing at the CSA's office at the above address.

AVAILABILITY OF MODIFIED TEXT

If the CSA makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the CSA adopts the regulations as revised.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be accessed through the CSA website at http://www.cdcr.ca.gov/Divisions_Boards/CSA/. Those persons who do not have access to the Internet may submit a written request to Allison Ganter or Ron Bertrand at the above address.

AVAILABILITY OF DOCUMENTS; INTERNET ACCESS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in ~~strikeout~~ and underline can be accessed through our website at http://www.cdcr.ca.gov/Divisions_Boards/CSA/. Those persons who do not have access to the Internet may submit a written request to Allison Ganter or Ron Bertrand at the above address.